

REMARKS

Claims 1-27 are pending.

Claims 3-27 stand objected because of informalities.

Claims 1-3, 5, and 17 stand rejected under 35 USC §102(e) as being allegedly unpatentable over Davies (US 6,483,805).

Claims 4, 6-16, and 18-27 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

Changes in the claims:

Claims 3-27 have been amended in this application to further particularly point out and distinctly claim subject matter regarded as the invention.

In particular, the term “A datagram transfer system” has been replaced with “The datagram transfer system” in claims 3-16 and 18-27. The term “far” has been replaced with “for” in claim 17. No new matter has been added.

Rejection under 35 USC §102(e) – claims 1-3, 5, and 17

Claims 1-3, 5, and 17 stand rejected under 35 USC §102(e) as being allegedly unpatentable over Davies (US 6,483,805). This rejection is respectfully traversed.

Under MPEP §706.02(j), in order to establish a prima facie case of obviousness required for a §103 rejection, three basic criteria must be met: (1) there must be some suggestion or motivation either in the references or knowledge generally available to modify the reference or combine reference teachings (MPEP §2143.01), (2) a reasonable expectation of success (MPEP §2143.02), and (3) the prior art must teach or suggest all

the claim limitations (MPEP §2143.03). See In re Royka, 490 F. 2d 981, 180 USPQ 580 (CCPA 1974).

Davies teaches a method of monitoring telecommunications network traffic.

Claim 1

With respect to claim 1, the examiner indicated that “a processor arranged to monitor the rate of occurrence of packets indicative of starts and ends of transactional bursts within said traffic flow” disclosed in column 5, lines 46-65 and “means of marking each individual packet used to deliver data across an IF network with a code comprising a small number of bits” disclosed in column 6, line 63 to column 7, line 3 of the citation (US Patent No. 6,483,805, Davies et al.) correspond to the traffic monitoring function of claim 1 of the present application.

However, Davies does nothing more than disclose the point of monitoring specific packets and the point of distinguishing and marking individual packets. Davies does not monitor traffic information relating to datagrams transmitted to a network or received from the network by individual users. In contrast, the presently claimed invention claims “a traffic monitoring function for monitoring traffic information relating to datagrams that have been transmitted by individual users to a network or the datagrams.” See claim 1.

Furthermore, as claimed in claim 1, the traffic monitoring equipment directly monitors the traffic for each user, whereas Davies, as disclosed in column 8, lines 22-24 and 30-43, and column 10, lines 20-22, describes only the number of packets marked as

starts and ends of transactions are measured, and the measured results and the XXX statistical distribution relating to the transaction traffic are combined in order to estimate the load of the entire network (load of the output link of the router which transmits data).

It should be noted that the stored traffic information in the citation of Davies is the above-mentioned known statistical distribution and is **not** traffic information which is actually flowing. This traffic information is information relating to the load of the entire network for carrying out admission control of the transactions of the network. It is not traffic information for each user, and is completely unrelated to the marking of packets.

Accordingly, the Davies reference does not disclose the traffic monitoring function which is essential to claim 1 of the present application.

Moreover, the Office Action alleges that the step of calculating a difference of the number of packets to measure the traffic load disclosed in column 3, lines 49-56 of the Davies citation corresponds to the preference value computation function of claim 1 of the present application. However, the citation of Davies above as indicated by the Examiner only discloses that packets classified as belonging to one of at least three classes are received, and that the difference in the number of packets classified as belonging to the first class and the packets classified as belonging to the second class is calculated. In contrast to the preference value computation as claimed in claim 1, the evaluation of the network relating to the transmission of datagrams of individual users in Davies is **not** quantified. Accordingly, the Davies citation does not teach or describe the

preference value computation function which is claimed in claim 1 of the present application.

Furthermore, the Office Action alleges that the description regarding marking the packets with values when determining the priority on the next hop in column 7, lines 34.45 and the description regarding the use of a header showing the traffic class and ToS in column 10, line 58 to column 11, line 21 of the Davies citation correspond to the preference value insertion function as claimed in claim 1 of the present application. However, the preference value insertion function of claim 1 of the present application writes the preference value, which is a quantification of the evaluation of the network relating to the transmission of datagrams of individual users, to the headers of datagrams. Since the preference value computation function which computes the preference value is not described in the Davies citation as described above, the Davies citation does **not** disclose the preference value insertion function of claim 1 of the present application.

Davies describes quantification of the evaluation of the network by the traffic monitoring equipment, to the headers of datagrams, as disclosed in column 12, lines 20-29. Marking of codes indicative of starts and ends of transactional bursts is carried out by users, but automatic detection and marking of starts and ends of transactions by a router is not carried out. However, if a user does not carry out marking, the router compulsorily carries out marking in accordance with a certain rule (unrelated to the starts and ends of the original transactional bursts). For this reason, claim 1 of the present application and the citation fundamentally differ in the information inserted into the

packet headers. Therefore, the citation does not disclose the preference value insertion function which is essential to claim 1 of the present application.

As described above, since Davies does not disclose all of the traffic monitoring function, the preference value computation function, and the preference value insertion function which are essential to claim 1 of the present application, applicant submits that claim 1 recite novel subject matter which distinguishes over Davies.

Rejection of claims 2, 3, 5 and 17

Claims 2, 3, 5, and 17 stand rejected under 35 U.S.C. §102(b). These rejections are respectfully traversed for at least the reason that each of the rejected claims ultimately depend on an above-discussed base claim. The arguments set forth above regarding the base claims are equally applicable here. The base claims being allowable, the dependent claims must also be allowable.

Conclusion

For all of the above reasons, applicants submit that the amended claims are now in proper form, and that the amended claims all define patentable subject matter over the prior art. Therefore, Applicants submit that this application is now in condition for allowance.


Request for allowance

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited. If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

The Commissioner is hereby authorized to charge any required fees to our Deposit Account No. 50-1698.

Respectfully submitted,
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